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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2022/2023 (TERM ID 2220)

UIB2612 ISLAMIC BANKING AND FINANCE LAW

(All Sections / Groups)

10TH JULY 2023

Reading Time: 2.30 p.m. - 2.45 p.m.

Answering Time: 2.45 a.m. - 5.45 p.m.

(3 Hours 15 Minutes)

INSTRUCTIONS TO STUDENT

1. Students will have fifteen minutes during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 pages with 5 Questions only.
3. Attempt **TWO (2)** questions from Part A and **ALL** questions from Part B. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are allowed to bring into the exam venue the **CLEAN** and **ORIGINAL COPY** of: Islamic Financial and Services Act 2013; and (ii) Central Bank of Malaysia Act 2009. "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

PART A**ANSWER TWO (2) QUESTIONS****QUESTION 1**

In the case of *Bank Islam Malaysia Berhad v. Adnan Bin Omar*, a preliminary objection was raised by the defendant challenging the jurisdiction of Civil Court in hearing the Islamic finance case. The judge in the said case (NH Chan J), in dismissing the preliminary objection, ruled that the Civil Court shall have the jurisdiction to hear Islamic financial disputes and Islamic commercial cases considering Islamic finance matters fall under the *List 1 of Ninth Schedule* of the *Federal Constitution*.

Discuss the above with regard to adjudication of Islamic Banking matters in Malaysia. Your analysis must be supported with relevant provisions and case law.

(Total: 25 Marks)

QUESTION 2

“*Takaful*” sometimes translated as “*solidarity*” or mutual guarantee is a co-operative system of reimbursement or repayment in case of loss, organised as an Islamic or Shariah-compliant alternative to conventional insurance, which contains *Riba* (usury), *Maysir* (gambling) and *Gharar* (Uncertainty).

- (a) Discuss the permissibility of *Takaful* in Islam with reference to Shariah rulings and authorities in *Islamic Muamalat* and how prohibited elements are eliminated in its model.

(13 marks)

- (b) Explain the following concepts of *Takaful*:

- i. *Tabarru'*; and
- ii. *Taawwun*; and
- iii. *Al Mudharabah* concept in *Takaful*.

(12 marks)

(Total: 25 marks)

Continued...

QUESTION 3

The operations of savings account in Islamic Banks is primarily guided by the principle of *Al-Wadi'ah* which means “safekeeping”. In the arrangement, the bank (trustee) would receive money from client for custody with several conditions.

- a) Explain the application of *Wadi'ah* concepts in customers' accounts.

(20 marks)

- b) Indicate how a performing Islamic Financial Institutions (IFI) may assist other IFI (s) to provide funding for investment activity?

(5 marks)

(Total: 25 marks)

(Total: 25 Marks)

Continued...

PART B**ANSWER ALL QUESTIONS****QUESTION 4**

- (a) *Musharakah Mutanaqisah* includes not only partnership, but also ijarah and sale. It has been invented through the gradual development of Islamic banking products. The concept of partnership and its ruling is discussed in the classical Fiqh books. (*Al- Sarakhsi*, 1978; *Al- Kasani*, 1983).

Demonstrate the concept of *Musharakah Mutanaqisah* applied in Home Financing-i by Islamic Financial Institution (IFI), and how the IFI(s) make profit without having to impose interest as found in conventional housing loans.

(13 marks)

- (b) Illustrate the concept of *Murabahah* in Home Financing-i offered by Islamic Financial Institutions in Malaysia.

(12 marks)

(Total: 25 Marks)

QUESTION 5

An Islamic personal financing is one that follows the Islamic Banking principles. Being Shariah compliant means it does not have fixed or floating interest rates or fees (also known as *riba* or usury).

- (a) Illustrate the Islamic personal financing using the *Tawarruq* model.

(13 marks)

- (b) In a situation where the Islamic Financial Institutions need fund, one of the concepts used is *Commodity Murabahah*. Illustrate.

(12 marks)

(Total: 25 Marks)

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